

House Study Bill 73 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON VANDER LINDEN)

A BILL FOR

1 An Act providing for the future repeal of the state board of
2 tax review, providing for appeals to the director of revenue
3 for certain tax matters and modifying the powers and duties
4 of the director of revenue, and including effective date and
5 applicability provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I

FUTURE REPEAL OF

STATE BOARD OF TAX REVIEW — TRANSITION

Section 1. Section 421.1, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 6. *Future repeal.*

a. Notwithstanding subsection 5 or any other provision of law to the contrary, a party shall not appeal to the state board, nor shall the state board accept for review, any decision, order, directive, or assessment of the director of revenue or the department on or after the effective date of this division of this Act.

b. This section is repealed upon the occurrence of one of the following, whichever is earlier:

(1) The final disposition by the state board of all cases pending before the board on the effective date of this division of this Act. The chairperson of the board shall notify the Iowa Code editor upon the occurrence of this condition.

(2) July 1, 2016.

Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II

CORRESPONDING CHANGES

Sec. 3. Section 68B.35, subsection 2, paragraph e, Code 2015, is amended to read as follows:

e. Members of the state banking council, the ethics and campaign disclosure board, the credit union review board, the economic development authority, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa finance authority, the Iowa public employees' retirement system investment board, the board of the Iowa lottery authority, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and

1 gaming commission, the state board of regents, ~~the tax review~~
2 ~~board~~, the transportation commission, the office of consumer
3 advocate, the utilities board, the Iowa telecommunications
4 and technology commission, and any full-time members of other
5 boards and commissions as defined under section 7E.4 who
6 receive an annual salary for their service on the board or
7 commission. The Iowa ethics and campaign disclosure board
8 shall conduct an annual review to determine if members of any
9 other board, commission, or authority should file a statement
10 and shall require the filing of a statement pursuant to rules
11 adopted pursuant to chapter 17A.

12 Sec. 4. Section 421.17, subsection 19, paragraph b, Code
13 2015, is amended to read as follows:

14 b. (1) The provisions of sections 17A.10 to 17A.18A
15 relating to contested cases shall not apply to any matters
16 involving the equalization of valuations of classes of property
17 as authorized by this chapter and chapter 441.

18 (2) (a) This exemption from the provisions of sections
19 17A.10 to 17A.18A shall not apply to a hearing before the state
20 board of tax review.

21 (b) This subparagraph is repealed July 1, 2016.

22 (3) This exemption from the provisions of sections 17A.10
23 to 17A.18A shall not apply to a hearing before the director as
24 provided in section 441.49, subsection 5.

25 Sec. 5. Section 421.60, subsection 4, paragraph a,
26 unnumbered paragraph 1, Code 2015, is amended to read as
27 follows:

28 A prevailing taxpayer in an administrative hearing or a
29 court proceeding related to the determination, collection, or
30 refund of a tax, penalty, or interest may be awarded reasonable
31 litigation costs by the department, ~~state board of tax review,~~
32 or a court, that are incurred subsequent to the issuance of
33 the notice of assessment or denial of claim for refund in the
34 proceeding, based upon the following:

35 Sec. 6. Section 425.7, subsection 3, Code 2015, is amended

1 to read as follows:

2 3. a. If the director of revenue determines that a
3 claim for homestead credit has been allowed by the board of
4 supervisors which is not justifiable under the law and not
5 substantiated by proper facts, the director may, at any time
6 within thirty-six months from July 1 of the year in which
7 the claim is allowed, set aside the allowance. Notice of
8 the disallowance shall be given to the county auditor of the
9 county in which the claim has been improperly granted and a
10 written notice of the disallowance shall also be addressed
11 to the claimant at the claimant's last known address. The
12 claimant or board of supervisors may appeal to the ~~state board~~
13 ~~of tax review pursuant to section 421.1, subsection 5~~ director
14 of revenue within thirty days from the date of the notice of
15 disallowance. The director shall grant a hearing and if, upon
16 the hearing, the director determines that the disallowance was
17 incorrect, the director shall set aside the disallowance. The
18 director shall notify the claimant and the board of supervisors
19 of the result of the hearing. The claimant or the board of
20 supervisors may seek judicial review of the action of the ~~state~~
21 ~~board of tax review~~ director of revenue in accordance with
22 chapter 17A.

23 b. If a claim is disallowed by the director of revenue
24 and not appealed to the ~~state board of tax review~~ director of
25 revenue or appealed to the ~~state board of tax review~~ director
26 of revenue and thereafter upheld upon final resolution,
27 including any judicial review, any amounts of credits allowed
28 and paid from the homestead credit fund including the penalty,
29 if any, become a lien upon the property on which credit was
30 originally granted, if still in the hands of the claimant,
31 and not in the hands of a bona fide purchaser, and any amount
32 so erroneously paid including the penalty, if any, shall be
33 collected by the county treasurer in the same manner as other
34 taxes and the collections shall be returned to the department
35 of revenue and credited to the homestead credit fund. The

1 director of revenue may institute legal proceedings against
2 a homestead credit claimant for the collection of payments
3 made on disallowed credits and the penalty, if any. If a
4 person makes a false claim or affidavit with fraudulent intent
5 to obtain the homestead credit, the person is guilty of a
6 fraudulent practice and the claim shall be disallowed in full.
7 If the credit has been paid, the amount of the credit plus a
8 penalty equal to twenty-five percent of the amount of credit
9 plus interest, at the rate in effect under section 421.7,
10 from the time of payment shall be collected by the county
11 treasurer in the same manner as other property taxes, penalty,
12 and interest are collected and when collected shall be paid to
13 the director of revenue. If a homestead credit is disallowed
14 and the claimant failed to give written notice to the assessor
15 as required by section 425.2 when the property ceased to be
16 used as a homestead by the claimant, a civil penalty equal to
17 five percent of the amount of the disallowed credit is assessed
18 against the claimant.

19 Sec. 7. Section 425.27, Code 2015, is amended to read as
20 follows:

21 **425.27 Audit — recalculation or denial — appeals.**

22 If on the audit of a claim for credit or reimbursement under
23 this division, the director determines the amount of the claim
24 to have been incorrectly calculated or that the claim is not
25 allowable, the director shall recalculate the claim and notify
26 the claimant of the recalculation or denial and the reasons
27 for it. The recalculation of the claim shall be final unless
28 appealed to the director within thirty days from the date of
29 notice of recalculation or denial. The director shall grant a
30 hearing, and upon hearing determine the correct claim, if any,
31 and notify the claimant of the decision by mail. The director
32 shall not adjust a claim after three years from October 31
33 of the year in which the claim was filed. If the claim for
34 reimbursement has been paid, the amount may be recovered by
35 assessment in the same manner that income taxes are assessed

1 under sections 422.26 and 422.30. If the claim for credit has
2 been paid, the director shall give notification to the claimant
3 and the county treasurer of the recalculation or denial of the
4 claim and the county treasurer shall proceed to collect the
5 tax owed in the same manner as other property taxes due and
6 payable are collected, if the property on which the credit was
7 granted is still owned by the claimant, and repay the amount
8 to the director upon collection. If the property on which the
9 credit was granted is not owned by the claimant, the amount
10 may be recovered from the claimant by assessment in the same
11 manner that income taxes are assessed under sections 422.26
12 and 422.30. ~~The recalculation of the claim~~ decision of the
13 director shall be final unless appealed as provided in section
14 425.31. Section 422.70 is applicable with respect to this
15 division.

16 Sec. 8. Section 425.31, Code 2015, is amended to read as
17 follows:

18 **425.31 Appeals.**

19 Any person aggrieved by an act or decision of the director
20 of revenue or the department of revenue under this division
21 shall have the same rights of appeal and review as provided
22 in ~~sections 421.1 and~~ section 423.38 and the rules of the
23 department of revenue.

24 Sec. 9. Section 426A.6, Code 2015, is amended to read as
25 follows:

26 **426A.6 Setting aside allowance.**

27 If the director of revenue determines that a claim for
28 military service tax exemption has been allowed by a board of
29 supervisors which is not justifiable under the law and not
30 substantiated by proper facts, the director may, at any time
31 within thirty-six months from July 1 of the year in which the
32 claim is allowed, set aside the allowance. Notice of the
33 disallowance shall be given to the county auditor of the county
34 in which the claim has been improperly granted and a written
35 notice of the disallowance shall also be addressed to the

1 claimant at the claimant's last known address. The claimant
2 or the board of supervisors may appeal to the ~~state board of~~
3 ~~tax review pursuant to section 421.1, subsection 5~~ director
4 of revenue within thirty days from the date of the notice of
5 disallowance. The director shall grant a hearing and if, upon
6 the hearing, the director determines that the disallowance was
7 incorrect, the director shall set aside the disallowance. The
8 director shall notify the claimant and the board of supervisors
9 of the result of the hearing. The claimant or the board of
10 supervisors may seek judicial review of the action of the
11 state board of tax review director of revenue in accordance
12 with chapter 17A. If a claim is disallowed by the director
13 of revenue and not appealed to the ~~state board of tax review~~
14 director of revenue or appealed to the ~~state board of tax~~
15 review director of revenue and thereafter upheld upon final
16 resolution, including judicial review, the credits allowed and
17 paid from the general fund of the state become a lien upon the
18 property on which the credit was originally granted, if still
19 in the hands of the claimant and not in the hands of a bona fide
20 purchaser, the amount so erroneously paid shall be collected
21 by the county treasurer in the same manner as other taxes, and
22 the collections shall be returned to the department of revenue
23 and credited to the general fund of the state. The director
24 of revenue may institute legal proceedings against a military
25 service tax exemption claimant for the collection of payments
26 made on disallowed exemptions.

27 Sec. 10. Section 426C.7, subsection 2, Code 2015, is amended
28 to read as follows:

29 2. The claimant or board of supervisors may appeal any
30 decision of the director of revenue to the ~~state board of tax~~
31 ~~review pursuant to section 421.1, subsection 5~~ director of
32 revenue within thirty days from the date of the notice of the
33 recalculation or denial provided to the claimant and county
34 auditor. The director shall grant a hearing, and upon hearing
35 the director shall determine the correct credit, if any, and

1 notify the claimant, board of supervisors, county auditor, and
2 county treasurer of the decision by mail. The claimant, or
3 ~~the board of supervisors, or the director of revenue~~ may seek
4 judicial review of the action of the ~~state board of tax review~~
5 director of revenue in accordance with chapter 17A.

6 Sec. 11. Section 429.1, Code 2015, is amended to read as
7 follows:

8 **429.1 Notice of assessment.**

9 The director of revenue shall, at the time of making the
10 assessment of property as provided in chapters 428, 433, 434,
11 437, and 438, inform the person assessed, by mail, of the
12 valuation put upon the taxpayer's property. The notice shall
13 contain a notice of the taxpayer's right of appeal to the ~~state~~
14 ~~board of tax review~~ director of revenue as provided in section
15 429.2.

16 Sec. 12. Section 429.2, Code 2015, is amended to read as
17 follows:

18 **429.2 Appeal.**

19 1. ~~Notwithstanding the provisions of chapter 17A, the~~ The
20 taxpayer shall have thirty days from the date of the notice of
21 assessment to appeal the assessment to the ~~state board of tax~~
22 ~~review~~ director of revenue. Thereafter, the proceedings before
23 the ~~state board of tax review~~ director of revenue shall conform
24 to the provisions of subsection 2, ~~section 421.1, subsection~~
25 ~~5,~~ and chapter 17A.

26 2. The following rules shall apply to the appeal proceedings
27 in addition to those stated in ~~section 421.1, subsection 5, and~~
28 chapter 17A:

29 a. The department's assessment shall be presumed correct
30 and the burden of proof shall be on the taxpayer with respect
31 to all issues raised on appeal, including any challenge of the
32 director's valuation.

33 b. The burden of proof must be carried by a preponderance of
34 the evidence.

35 c. The ~~board~~ director of revenue shall consider all evidence

1 and witnesses offered by the taxpayer ~~and the department,~~
2 including, but not limited to, evidence relating to the proper
3 valuation of the property involved.

4 *d.* The ~~board~~ director of revenue shall make an independent
5 determination of the value of the property based solely upon
6 ~~its~~ the director's review of the evidence presented.

7 *e.* Upon the request of a party, ~~the board~~ director of
8 revenue shall set the case for hearing within one year of
9 the date of the request, unless for good cause shown, by
10 application and ruling thereon after notice and not ex parte,
11 the hearing date is continued by the ~~board~~ director of revenue.

12 Sec. 13. Section 429.3, Code 2015, is amended to read as
13 follows:

14 **429.3 Judicial review.**

15 Judicial review of the action of the ~~state board of tax~~
16 ~~review~~ director of revenue may be sought by the taxpayer ~~or the~~
17 ~~director of revenue~~ in accordance with the terms of chapter
18 17A.

19 Sec. 14. Section 441.21, subsection 1, paragraph i,
20 subparagraphs (2) and (5), Code 2015, are amended to read as
21 follows:

22 (2) The conference board shall respond to the department
23 within thirty days of receipt of the notice of noncompliance.
24 The conference board may respond to the notice by asserting
25 that the assessor is in compliance with the rules, guidelines,
26 and forms of the department or by informing the department that
27 the conference board intends to submit a plan of action to
28 achieve compliance. If the conference board responds to the
29 notification by asserting that the assessor is in compliance, a
30 hearing before the director of revenue shall be scheduled on
31 the matter. Judicial review of the decision of the director
32 of revenue may be sought by the conference board in accordance
33 with chapter 17A.

34 (5) If the conference board disputes the determination
35 of the department, the chairperson of the conference board

1 may appeal the determination to the ~~state board of tax~~
2 review director of revenue within thirty days from the date
3 of the notice that the assessor remains in noncompliance.
4 The director of revenue shall grant a hearing, and upon
5 hearing shall determine the correctness of the department's
6 determination of noncompliance. The director of revenue shall
7 notify the conference board of the decision by mail. Judicial
8 review of the decision of the director of revenue may be sought
9 by the chairperson of the conference board in accordance with
10 chapter 17A.

11 Sec. 15. Section 441.49, subsection 5, Code 2015, is amended
12 to read as follows:

13 5. Not later than ten days after the date the final
14 equalization order is issued, the city or county officials
15 of the affected county or assessing jurisdiction may appeal
16 the final equalization order to the ~~state board of tax~~
17 review director of revenue. The appeal shall not delay the
18 implementation of the equalization orders. The director shall
19 grant a hearing, and upon hearing the director shall determine
20 the correctness of the final equalization order, and notify
21 city or county officials of the affected county or assessing
22 jurisdiction of the decision by mail. Judicial review of the
23 decision of the director of revenue may be sought by the city
24 or county officials in accordance with chapter 17A.

25 Sec. 16. EFFECTIVE DATES.

26 1. Except as provided in subsection 2, this division of this
27 Act, being deemed of immediate importance, takes effect upon
28 enactment.

29 2. The following provisions of this division of this Act
30 take effect July 1, 2016:

31 a. The section of this Act amending section 68B.35.

32 b. The section of this Act amending section 421.60.

33

EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
35 the explanation's substance by the members of the general assembly.

1 This bill provides for the future repeal of the state board
2 of tax review, appeals to the director of revenue (director)
3 for certain tax matters, and modifies the powers and duties of
4 the director.

5 DIVISION I — FUTURE REPEAL OF STATE BOARD OF TAX REVIEW
6 — TRANSITION. Division I provides for the future repeal of
7 the state board of tax review. The state board of tax review
8 (board) is an independent, bipartisan board consisting of
9 three members appointed by the governor and confirmed by the
10 senate. One of the powers and duties of the board is to review
11 final decisions of the director, including but not limited
12 to final decisions issued by the director in a contested
13 case proceeding. The board also has original jurisdiction
14 to review the director's assessments of centrally assessed
15 property, which means the taxpayer appeals the assessment of
16 the director directly to the board. An appeal must be made to
17 the board within 30 days of a director's decision in order to
18 be considered timely. Both the taxpayer and the director have
19 the right to appeal a decision of the board to district court.

20 The division prohibits the board from accepting cases for
21 review, and prohibits a taxpayer from filing an appeal with the
22 board, on or after the effective date of the division. The
23 board is repealed and dissolved on the date that it disposes of
24 all pending cases or on July 1, 2016, whichever occurs earlier.
25 The division takes effect immediately upon enactment.

26 DIVISION II — CORRESPONDING CHANGES. Division II makes
27 corresponding changes to Code sections that reference the board
28 and provides for appeals to the director for certain actions
29 that are appealed directly to the board under current law.

30 The division removes members of the board from the
31 requirement to file certain financial statements with the
32 ethics and campaign disclosure board. The division also
33 strikes references to the board from the ability of a
34 prevailing taxpayer to be awarded litigation costs in certain
35 proceedings. These provisions take effect July 1, 2016.

1 The division amends the procedures for appealing the
2 director's disallowance, recalculation, or denial of a
3 homestead property tax credit, property tax credit or rent
4 reimbursement for elderly and disabled, military service
5 property tax exemption, or business property tax credit.
6 Current law provides that these decisions may be appealed to
7 the board. The division provides that these decisions may
8 be appealed to the director within 30 days of the notice of
9 disallowance, recalculation, or denial. If such an appeal is
10 made, the director is required to grant a hearing and determine
11 the correctness of the disallowance, recalculation, or denial.
12 The director's decisions are subject to judicial review.

13 The division amends procedures and rules for appealing the
14 director's assessment of telegraph and telephone companies
15 (Code chapter 433), railway companies (Code chapter 434),
16 electric transmission line companies (Code chapter 437),
17 pipeline companies (Code chapter 438), and certain other
18 property assessed by the director (Code chapter 428). Current
19 law provides that these tax assessments shall be appealed
20 directly to the board, and provides for certain additional
21 rules that apply to proceedings before the board. The division
22 provides that these tax assessments shall be appealed to the
23 director and provides that the existing additional rules
24 shall apply to appeal proceedings before the director. The
25 director's decisions are subject to judicial review.

26 The division specifies that a city or county conference
27 board may seek judicial review of the decision of the director
28 following a hearing to determine a city or county assessor's
29 noncompliance with the rules for valuation of property.
30 The division also amends the procedures for appealing a
31 determination by the department of revenue that an assessor
32 remains in noncompliance following a plan of action by a
33 conference board to achieve compliance. Current law provides
34 that such a determination may be appealed to the board. The
35 division provides that the decision may be appealed to the

1 director within 30 days of the notice of noncompliance. The
2 director is required to grant a hearing and determine the
3 correctness of the noncompliance determination. Judicial
4 review may be sought by the chairperson of the conference
5 board.

6 The division amends the procedures for appealing a final
7 equalization order of the director. Current law provides
8 that such orders may be appealed to the board. The division
9 provides that these orders may be appealed to the director.
10 The director is required to grant a hearing and determine the
11 correctness of the final equalization order. Judicial review
12 of the director's decision may be sought by the city or county
13 officials.

14 The division also amends the duties and powers of the
15 director with regard to the appeal of a final equalization
16 order. Current law provides that certain rules relating to
17 contested case proceedings in Code chapter 17A (administrative
18 procedures Act) do not apply to matters involving the
19 equalization of property, except in a hearing before the board.
20 The division provides that the contested case proceeding rules
21 will apply in a hearing before the director from an appeal of a
22 final equalization order, and provides for the future repeal on
23 July 1, 2016, of the reference to the board's exemption from
24 those rules.

25 Except as otherwise provided in the division, the division
26 takes effect immediately upon enactment.